

Ex. 4



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Memphis District Office

1407 Union Avenue, Suite 901
Memphis, TN 38104
Memphis Direct Dial: (901) 544-0119
TTY (901) 544-0112
FAX (901) 544-0111

August 16, 2011

Jesse R. Ortiz
7133 Hurt Road
Horn Lake, MS 38637

Re: Jesse R. Ortiz vs. The Hershey Company
Charge No. 490-2011-00965

Dear Mr. Ortiz:

This letter serves as a Pre-Determination Interview and the Commission will shortly issue its decision based on the following information obtained during the investigation:

You alleged that you were discriminated against because of your race (Hispanic). Specifically, you alleged that you were the only employee who was consistently assigned to operate four presses as well as two lines during your employment. You also alleged you were suspended and discharged for failing to stop a production line after a metal detector wand was caught in a machine. You identified two Black employees, Gary Johnson and Marilyn Clemons, who committed the same infraction but were not disciplined or discharged.

The Respondent denied the allegations. Evidence revealed none of the other Hispanic employees were required to operate four presses or two lines. Evidence revealed you were issued a Last Chance Agreement on January 31, 2008 which stated you would be terminated if you violated any of the Respondent's policies. Evidence revealed you subsequently violated various policies and in lieu of being discharged, you were issued written warnings in January 2009, May 2009 and in March 2010. Evidence revealed that after violating two policies in August 2010, you were discharged by Respondent. Evidence revealed your Black comparators, Gary Johnson and Marilyn Clemons, were disciplined in April 2010 for violating company policy. Evidence revealed Johnson was issued a written warning for failing to notice dark, green specks on a product and Clemons was issued the same for mislabeling a product. Evidence revealed neither Johnson or Clemons were issued Last Chance Agreements prior to their April 2010 warnings, thus they were not discharged from Respondent.

If you have additional information that you feel will support your allegations, please submit the information to me by mail no later than August 26, 2011 and/or contact me at (901) 544-0081. Otherwise, the District Director will make a decision regarding the merits of your charge based on the above analysis of facts. In the event it is determined the evidence does not support a finding of discrimination, the District Director will issue a Dismissal and Notice of Rights notifying you of your right to pursue the matter in federal court within 90 days of the dismissal.

Sincerely,

Jan L. Mitchell
Investigator

Cc: Glenwood P. Roane, Sr.

Jesse Ortiz vs. Hershey Charge No. 490-2011-00965

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